IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Criminal Appeal No. 589 of 2000

Date of decision: 10.10.2007

State of H.P. **…Appellant.**

Versus

Babu Ram and others **…Respondents.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?

For the appellant : Mr. D.S. Nainta, Dy. A.G.

For respondents : Mr. A.K. Bansal, Advocate.

Surjit Singh, Judge(Oral)

This appeal, by the State, is directed against the judgment of Special Judge, Nahan, whereby the respondents, who were sent up for trial for offences punishable under sections 468, 471, 420, 120-B of the Indian penal Code and Section 13(2) of the Prevention of Corruption Act by the Anti-Corruption Zone, Nahan, have been acquitted.

2. Prosecution story, as per record, is like this. In the years 1989-90 and 1990-91, works of raising nursery and maintenance of Bridal Path were undertaken in the Forest Beat Jarwa. Respondent Babu Ram was the Forest Guard of that Beat while Ram Lal and Faquir Singh, respondents were the Block Officers of a group of Forest Beats, which included the aforesaid Jarwa, Panog Beat. Allegation against the respondents was that they, in connivance with each other and the Range Officer J.C. Katar, who is no more, prepared bogus record of engagement of labourers for the aforesaid jobs in the form of muster rolls. Some of the

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Whether reporters of the local papers may be allowed to see the judgment?

labourers, named in those muster rolls, had not been engaged at all, some of them even did not exist and to some others, named in the muster rolls, lesser amounts of money had been paid than those shown against their names in the muster rolls. Lagnu Ram (PW-4), Jagat Ram PW-5 and Kundan Singh (PW-16) were alleged to have never been engaged as labourers by the respondents nor did they work in connection with the aforesaid two jobs, but in the muster rolls their names were entered and they were shown to have been paid certain amounts of money mentioned against their names and their signatures against their names had been forged. Five fictitious names were entered in the muster rolls. Those names were of Ran Singh son of Sunder Singh, Guman Singh, Surat Singh, Amar Singh, Kamna son of Jeetu and Basti Ram son of Nathu. They were shown to have been engaged as labourers and wages were shown to have been paid as mentioned in the muster rolls, but in fact no persons by such names were there in the villages they were shown to be residents of in the muster rolls. Further it was alleged that in some of the muster rolls Jagat Ram (PW-5), Singha Ram (PW-6), Rattan Singh (PW-7), Prithi Singh (PW-8) and Jalam Singh (PW-9) were shown to have worked for a larger number of days than the number of days they actually worked for and consequently larger amounts of money than those actually payable to them were shown to have been paid, but the said persons were paid lesser amounts than those shown in the muster rolls.

3. Trial Court has acquitted all the respondents holding that the charge does not stand established beyond reasonable doubt. The trial Court has observed that the allegedly non-existing persons, named in the FIR, cannot be said to be actually non-existent, because the only evidence that has been led by the prosecution is in the form of the testimony of Rakesh Kumar (PW-15), Panchayat Secretary, who has testified on the basis of the entries in the Pariwar Register that such persons do not exist

as their names do not figure in the said register. The view taken by the trial Court cannot be said to be perverse, because the witness is not supposed to be having any personal knowledge as he is only an employee of the Panchayat and his testimony is not based on his personal knowledge. It is a matter of common knowledge that names of all the residents of a particular village may not appear in the Pariwar Register. In some cases even the births and deaths are not complete. So the view taken by the trial Court does not call for interference.

4. Trial Court has not believed the prosecution version that PW-2 Jeetu, PW-3 Ganga Ram, PW-4 Lagnu Ram, PW-5 Jagat Ram and PW-16 Kundan Singh had never been engaged as labourers holding that even though some of these witnesses have denied their signatures on the muster rolls and the opinion evidence of the hand-writing expert is also there that their purported signatures on the muster rolls do not tally with their specimen signatures, their alleged standard signatures, i.e. specimen signatures, allegedly taken in the presence of PW-12 Kundan Singh, Pardhan of Gram Panchayat, have not been proved to be their signatures. The trial Court has observed that PW-12 Kundan Singh in his cross-examination stated that the specimen signatures of these persons were taken by the Inspector Vigilance in one go and thereafter he wrote on the paper-sheets, containing the specimen signatures, particulars of the persons and then submitted all of them to him for his signature and affixation of seal impression. Another reason given by the trial Court is that the witness stated that he was unable to say which specimen signatures were written by which witness as he was unable to read their particulars appearing on the

top of the papers containing such specimen signatures, since he did not know English language in which such particulars were written by the Inspector. This view of the trial Court can also not be said to be perverse.

5. In addition to the aforesaid reasons, I find that the above-named five witnesses, whose signatures have allegedly been forged, did not say while in the witness box that their specimen signatures were taken in the presence of PW-12 Kundan Singh, Pardhan of the Gram Panchayat during the investigation of the case. Against the name of PW-2 Jeetu in the muster roll Ext. PA-1 it is not the signature but thumb impression at serial No. 13. This thumb impression was got compared with his specimen thumb impression on paper-sheet Ext. PW-19/1, which is marked as T. The Finger Print Expert, who vide report Ext. PZ opined that the same was ink smudged and did not permit of comparison. Therefore, it cannot be said that the thumb impression of Jeetu on muster roll Ext. PA/1 is not genuine.

6. Ganga Ram (PW-3) though denied having worked in July 1990 as labourer in Jarwa Beat, but he was not shown by the prosecution his purported signature against his name in the muster roll Ext. PA/4. Thus, his purported signature is not denied by him. Further the witness stated that his specimen thumb impressions were taken before the Pardhan of the Panchayat. He did not say that his specimen signatures were also taken and, therefore, the opinion of the handwriting expert Ext. PW-18/A that the purported signature of this witness on muster roll Ext. PA/4 does not tally with

his specimen signatures mark S-56 to S-58, is of no avail to the prosecution.

7. Lagnu Ram (PW-4) denied that he ever worked as labourer, but his purported thumb impression against his name in muster roll Ext. P/5 was not shown to him and also it was not got compared with his standard thumb impression. Therefore, it cannot be said that his thumb impression is not genuine and for this reason his testimony that he never worked, cannot be believed.

8. Jagat Ram (PW-5) has testified that once he worked as labourer in Panog nursery, but was paid Rs.250/- against the entered amount of Rs.360/-. He has denied that he again worked in July 1990. He has also denied his signature in the muster roll Ext. PA/5 pertaining to the month of July 1990. The handwriting expert has given the opinion that the signatures marked Q-122 on muster roll Ext. PA/5 does not tally with the specimen signatures of this witness, but PW-5 Jagat Ram does not say that his specimen signatures were ever taken during the investigation of the case in the presence of the Pardhan of the Panchayat Kundan Singh (PW-12) or anybody else.

9. PW-16 Kundan Singh admits his signatures on one muster roll, i.e. Ext. PA/2, but denies on the other muster roll Ext. PA/5. The handwriting expert, vide report Ext. PW-18/A, has opined the signatures of the witness on both the aforesaid muster rolls having not been written in the handwriting of this witness. The testimony of this witness in which he admits one of the signatures to be in his hand, even casts doubt on the opinion evidence of the

handwriting expert. This witness also does not say that his specimen signatures were obtained during the investigation or any other point of time.

10. For the foregoing reasons, the view taken by the learned trial Court that PW-2 Jeetu, PW-3 Ganga Ram, PW-4 Lagnu Ram, PW-5 Jagat Ram and PW-16 Kundan Singh are not proved to have not worked or not received the amounts of money mentioned against their names in the muster rolls, beyond reasonable doubt, cannot be said to be unwarranted or not supported by the evidence on record.

11. No doubt PW-6 Singha Ram, PW-7 Rattan Singh, PW-8 Prithi Singh and PW-9 Jalam Singh have stated that they were not paid the whole of the amount shown against their names in muster roll, Ext. PA/2 and were paid only parts thereof, but their signatures are there against those entries in token of their having received the amounts in full and so the trial Court's view that their statements cannot be taken to be gospel truth in the face of the fact that they have put their signatures against the entries, can also not be said to be perverse or unwarranted by the evidence on record.

12. As a result of the above discussion, appeal is dismissed.

October 10, 2007 (BC) **(Surjit Singh)**
Judge